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SENATE BILL 1245

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

FERNANDO R. MACIAS

AN ACT

RELATING TO CRIMINAL LAW; CREATING NEW CRIMINAL OFFENSES  
INVOLVING ASSAULT OR BATTERY UPON A STATE EMPLOYEE; PROVIDING  
PENALTIES; ENACTING A NEW SECTION OF THE CRIMINAL CODE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Criminal Code is enacted  
to read:

"NEW MATERIAL ASSAULT--BATTERY--STATE EMPLOYEES.--

A. Assault upon a state employee consists of:

(1) an attempt to commit a battery upon the  
person of a state employee engaged in the lawful discharge of  
his duties; or

(2) any unlawful act, threat or menacing  
conduct that causes a state employee engaged in the lawful  
discharge of his duties to reasonably believe that the employee

Underscored material = new  
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1 is in danger of receiving an immediate battery.

2           Whoever commits assault upon a state employee is guilty of  
3 a misdemeanor.

4           B. Aggravated assault upon a state employee consists  
5 of:

6                   (1) using a deadly weapon when assaulting or  
7 striking at a state employee engaged in the lawful discharge of  
8 his duties;

9                   (2) wearing a mask, hood, robe or other  
10 covering upon the face, head or body, or using any other  
11 disguise in any manner, so as to conceal identity when  
12 threatening or menacing a state employee engaged in the lawful  
13 discharge of his duties; or

14                   (3) assaulting with intent to commit any other  
15 felony on a state employee engaged in the lawful discharge of  
16 his duties.

17           Whoever commits aggravated assault upon a state employee is  
18 guilty of a fourth degree felony.

19           C. Assault with intent to commit a violent felony  
20 upon a state employee consists of assaulting with intent to kill  
21 a state employee engaged in the lawful discharge of his duties.

22           Whoever commits assault with intent to commit a violent  
23 felony upon a state employee is guilty of a second degree  
24 felony.

25           D. Battery upon a state employee consists of the

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1 unlawful, intentional touching or application of force to the  
2 person of a state employee engaged in the lawful discharge of  
3 his duties, when the unlawful, intentional touching or  
4 application of force is done in a rude, insolent or angry  
5 manner.

6       Whoever commits battery upon a state employee is guilty of  
7 a fourth degree felony.

8       E. Aggravated battery upon a state employee consists  
9 of the unlawful touching or application of force with intent to  
10 injure the person of a state employee engaged in the lawful  
11 discharge of his duties.

12       Whoever commits aggravated battery upon a state employee  
13 that is not likely to cause the death of or great bodily harm to  
14 a state employee but does cause painful temporary disfigurement  
15 or temporary loss or impairment of the functions of any member  
16 or organ of the body of a state employee is guilty of a fourth  
17 degree felony.

18       Whoever commits aggravated battery upon a state employee  
19 that inflicts great bodily harm, or that is done with a deadly  
20 weapon or in any manner whereby great bodily harm or death can  
21 be inflicted, is guilty of a third degree felony.

22       F. Every person who assists or is assisted by one or  
23 more other persons to commit a battery or aggravated battery  
24 upon a state employee is guilty of fourth degree felony.

25       G. As used in this section:

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(1) "lawful discharge of his duties" means any conduct that a state employee is requested, required or authorized to perform by the state as part of his employment, regardless of the time or place of performance; and

(2) "state employee" means any officer or employee of the state or any of its branches, agencies, departments, boards, instrumentalities or institutions, whether the officer or employee is compensated or uncompensated, but does not include independent contractors."

Section 2. EFFECTIVE DATE. -- The effective date of the provisions of this act is July 1, 1997.